

The Gazette of India

EXTRAORDINARY PART II—Section 3—Sub-section (ii) PUBLISHED BY AUTHORITY

No. 195] NEW DELHI, SATURDAY, AUGUST 1, 1964/SRAVANA 10, 1886

Separate paging is given to this Part in order that it may be filed
as a separate compilation

CENTRAL BOARD OF DIRECT TAXES NOTIFICATIONS

INCOME-TAX

New Delhi, the 29th July 1964

S.O. 2663.—In exercise of the powers conferred by clause (d) of sub-section (5) of section 2 of the Finance Act, 1964 (5 of 1964), the Central Board of Direct Taxes hereby makes the following rules, namely:—

1. **Short Title.**—These rules may be called the Income-tax (Determination of Export Profits) Rules, 1964.

2. **Computation of qualifying income.**—(1) Where the total income of an assessee referred to in sub-clause (i) of clause (a) of sub-section (5) of section 2 of the Finance Act, 1964 (5 of 1964) includes any profits and gains derived from the export of any goods or merchandise out of India, the amount of such profits and gains in respect of which deduction of income-tax and super-tax is admissible under that sub-clause (hereinafter referred to as the qualifying income) shall be computed in accordance with the provisions of sub-rule (2) or sub-rule (8) or sub-rule (4) of this rule, as the case may be.

(2) Where in the opinion of the Income-tax Officer it is possible to ascertain the profits and gains on such exports, the qualifying income shall be taken to be the amount by which the profits and gains so ascertained in accordance with the provisions of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the Act) and included in the total income exceed the aggregate of the amount of any portion thereof on which income-tax or super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any of the provisions of the Act.

(3) Where in the opinion of the Income-tax Officer the profits and gains on such exports cannot be ascertained, the qualifying income shall be taken to be the amount which bears to the profits and gains of the whole business of which such exports form a part and included in the total income (as reduced by the aggregate of the amount of any portion thereof on which income-tax and super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any of the provisions of the Act), the same proportion as the value of the turn-over in respect of such exports bears to the turn-over of the business of which such exports form a part.

(4) Where in the opinion of the Income-tax Officer a computation of such profits and gains in the manner specified in sub-rule (3) presents exceptional difficulties, the qualifying income shall be taken to be the amount by which such

profits and gains as ascertained by the Income-tax Officer on any other reasonable basis on the data available and included in the total income exceed the aggregate of the amount of any portion thereof on which income-tax or super-tax is not payable and the amount in respect of which a deduction of income-tax and super-tax has been granted under any of the provisions of the Act.

[No. 55/F. No. 1(278)-64/TPL.]

SURTAX

New Delhi, the 31st July 1964

S.O. 2664.—In exercise of the powers conferred by section 25 of the Companies (Profits) Surtax Act, 1964 (7 of 1964), and all other powers enabling it in this behalf, the Central Board of Direct Taxes hereby makes the following rules, namely:—

1. **Short title.**—These rules may be called the Companies (Profits) Surtax Rules, 1964.

2. **Definitions.**—(1) In these rules, unless the context otherwise requires,—

- (i) "the Act" means the Companies (Profits) Surtax Act, 1964 (7 of 1964);
- (ii) "applied section" means a section of the Income-tax Act, 1961 (43 of 1961), as applied by section 18 of the Act and rule 3;
- (iii) "the applied Second Schedule" means the Second Schedule of the Income-tax Act, 1961 as applied by section 18 of the Act and rule 3;
- (iv) "the applied Third Schedule" means the Third Schedule of the Income-tax Act, 1961 as applied by section 18 of the Act and rule 3;
- (v) in the applied sections and in the applied Second Schedule, "the Act" means the Companies (Profits) Surtax Act, 1964.

(2) All references to "Forms" in these rules shall be construed as references to the forms set out in the Appendix hereto.

3. **Adaptations of Income-tax Act, 1961.**—The provisions of clause 2(44), 131 to 136 (both inclusive), 138, 140, 156, 160, 161, 162, 163, 166, 167, 170, 173, 175, 176, 178, 179, 220, to 229 (both inclusive), 231, 232, 233, 237 to 242 (both inclusive), 244, 245, 254 to 262 (both inclusive), 265, 266, 268, 269, 281, 282, 284, 284, 287 to 293 (both inclusive), the Second Schedule and the Third Schedule of the Income-tax Act, 1961 (43 of 1961), shall apply with the following modifications, namely:—

General modifications.—(i) All references to "this Act" except those in clause (vii) of sub-section (2), sub-section (3) and clause (b) of sub-section (1) of section 288, shall be construed as references to "the Act".

(ii) All references to "income-tax", except those,—

- (a) in the expressions "Income-tax Officer" and "Income-tax Act", wherever they occur;
- (b) in the expression "Income-tax practitioner" occurring in clause (iii) of sub-section (2) of section 288;
- (c) in the expression "Income-tax authority" occurring in sub-section (3) of section 288; and
- (d) in the expressions "Income-tax proceeding" and "Income-tax proceedings" occurring respectively in clause (b) of sub-section (1) and clause (b) of sub-section (5) of section 288;

shall be construed as references to "surtax".

(iii) All references to "tax" shall be construed as references to "surtax".

Modification of section 131.—(iv) In section 131, in sub-section (2), for the words, figures and letter "Chapter XVII-D", the words figures and brackets "the applied sections 220 to 229 (both inclusive), 231 and 232 and the applied Second Schedule and the applied Third Schedule" shall be substituted.

Modification of section 132.—(v) In section 132—

(a) in sub-section (1)—

(i) in clause (a)—

(1) for the words, brackets and figures "summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922, or

under sub-section (1) of section 131 of this Act", the words, brackets and figures "summons under sub-section (1) of the applied section 131" shall be substituted;

(2) for the words, brackets and figures "notice under sub-section (1) of section 22 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 142 of this Act", the words, brackets and figures "notice under sub-section (1) of section 6 of the Act" shall be substituted;

(ii) in clause (b), for the words and figures "the Indian Income-tax Act 1922 or under this Act", the words "the Act" shall be substituted;

(b) for the words and figures "the Indian Income-tax Act, 1922 or this Act", wherever they occur, the words "the Act" shall be substituted.

Modification of section 133.—(vi) In section 133, clauses (1), (2) and (3) shall be omitted.

Modification of section 133A.—(vii) In section 133A—

(a) in sub-section (1), the words "or profession", wherever they occur, shall be omitted;

(b) in sub-section (2), for the word and figures "section 131", the words and figures "the applied section 131" shall be substituted.

Modification of section 138.—(viii) In section 138, in sub-section (1), for the words "either under this Act or the Indian Income-tax Act, 1922, on or after the 1st day of April, 1960", the words "under the Act" shall be substituted.

Modification of section 140.—(ix) For section 140, the following section shall be substituted, namely:—

"140. *Return by whom to be signed.*—The return under section 5 of the Act shall be signed and verified by the principal officer of the company, or where in the case of a non-resident company any person has been treated as its agent under section 163 of the Income-tax Act, by such person."

Modification of section 156.—(x) In section 156, the brackets, words, figures and letter "(including annuity deposit referred to in Chapter XXIIA)" shall be omitted.

Modification of section 160.—(xi) In section 160, in sub-section (1),—

(a) in clause (i),—

(i) for the words, brackets and figures "in respect of the income of a non-resident specified in clause (i) of sub-section (1) of section 9", the words, brackets and figures "in respect of the chargeable profits relating to the income of a non-resident specified in clause (i) of sub-section (1) of section 9 of the Income-tax Act" shall be substituted;

(ii) for the word and figures "section 163", the words and figures "section 163 of the Income-tax Act" shall be substituted;

(b) clauses (iv) and (v) shall be omitted;

(c) In clause (iii),—

(i) for the word "income", the words "chargeable profits" shall be substituted;

(ii) the words "the Court of Wards, the Administrator-General, the Official Trustee or" and the words "Court of Wards, Administrator-General, Official Trustee", shall be omitted.

Modification of section 161.—(xii) In section 161,—

(a) for the word "income", wherever it occurs, the words "chargeable profits" shall be substituted;

(b) for the words "in respect of that", wherever they occur, the words "in respect of such" shall be substituted;

(c) in sub-section (1), for the words "this Chapter", the words, brackets and figures "sub-section (2) of this section and the applied sections 160, 162, 163, 166, 167, 170, 173, 175, 176, 178 and 179" shall be substituted;

(d) in sub-section (2), for the words "this Chapter", the words, brackets and figures "the applied sections 160 to 163 (both inclusive), 166, 167, 170, 173, 175, 176, 178 and 179" shall be substituted.

Modification of section 162.—(xiii) In section 162, in sub-section (2), for the words "this Chapter", the words, brackets and figures "the applied sections 160 to 163 (both inclusive), 166, 167, 170, 173, 175, 176, 178 and 179" shall be substituted.

Modification of section 166.—(xiv) For section 166, the following section shall be substituted, namely :—

"166. *Direct assessment or recovery not barred.*—Nothing in the applied sections 160 to 163 (both inclusive) shall prevent either the direct assessment of the company on behalf of which or for the benefit of which chargeable profits therein referred to are receivable, or the recovery from such company of the tax payable in respect of such chargeable profits".

Modification of section 170.—(xv) In section 170,—

- (a) the words "or profession", wherever they occur, shall be omitted;
- (b) for the word "income", wherever it occurs, the words "chargeable profits" shall be substituted;
- (c) sub-section (4) and the *Explanation* shall be omitted.

Modification of section 173.—(xvi) For section 173, the following section shall be substituted, namely :—

"173. *Recovery of tax in respect of non-resident from his assets.*—Without prejudice to the provisions of sub-section (1) of the applied section 161 or of the applied section 167, where the person entitled to the chargeable profits relating to the income referred to in clause (i) of sub-section (1) of section 9 of the Income-tax Act is a non-resident, the tax chargeable thereon, whether in his name or in the name of his agent who is liable as a representative assessee, may be recovered in accordance with the provisions of the applied sections 220 to 229 (both inclusive), 231 and 232 and the applied Second Schedule, and the applied Third Schedule from any assets of the non-resident which are, or, may at any time come, within India."

Modification of section 175.—(xvii) For section 175, the following section shall be substituted, namely :—

"175. *Assessment of persons likely to transfer property to avoid tax.*—(1) Notwithstanding anything contained in section 4 of the Act, if it appears to the Income-tax Officer during any current assessment year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of the Act, the chargeable profits of such person for the period from the expiry of the previous year for that assessment year to the date when the Income-tax Officer commences proceedings under this section shall be chargeable to tax in that assessment year.

- (2) The chargeable profits of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.
- (3) The Income-tax Officer may estimate the chargeable profits of such person for such period or any part thereof, where such profits cannot be readily determined in the manner provided in the Act.
- (4) For the purposes of making an assessment under sub-section (1), the Income-tax Officer may serve a notice upon such person requiring him to furnish, within such time, not being less than seven days, as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section 5 of the Act, setting forth the chargeable profits for each completed previous year comprised in the period referred to in sub-section (1) and his estimated chargeable profits for any part of the previous year comprised in that period; and the provisions of the Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were issued under sub-section (2) of section 5 of the Act.
- (5) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of the Act.

- (6) Where the provisions of sub-section (1) are applicable, any notice issued by the Income-tax Officer under sub-section (2) of section 5 or section 8 of the Act in respect of any tax chargeable under any other provision of the Act may, notwithstanding anything contained in sub-section (2) of section 5 or section 3 of the Act, as the case may be, require the furnishing of the return by such person within such period, not being less than seven days, as the Income-tax Officer may think proper."

Modification of section 176.—(xviii) In section 176,—

(a) in sub-section (1),—

- (i) for the word and figure "section 4", the words and figure "section 4 of the Act" shall be substituted;
- (ii) the words "or profession" shall be omitted;
- (iii) for the word "income", the words "chargeable profits" shall be substituted;

(b) in sub-section (2), for the words "total income", the words "chargeable profits" shall be substituted;

(c) in sub-section (3), the words "or profession" shall be omitted;

(d) sub-section (4) shall be omitted;

(e) for sub-section (5), the following sub-section shall be substituted, namely :—

"(5) Where an assessment is to be made under the provisions of this section, the Income-tax Officer may serve on the principal officer of the company, or where in the case of a non-resident company any person has been treated as its agent under section 163 of the Income-tax Act, on such person, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 5 of the Act and the provisions of the Act shall, so far as may be, apply accordingly as if the notice were a notice issued under sub-section (2) of section 5 of the Act."

(f) in sub-section (7), for the words, brackets and figures "sub-section (2) of section 139 or sub-section (1) of section 148", wherever they occur, the words, brackets and figures "sub-section (2) of section 5 or section 8 of the Act" shall be substituted.

Modification of section 178.—(xix) In section 178, in sub-section (1), for the word "income", the words "chargeable profits" shall be substituted.

Modification of section 179.—(xx) In section 179, for the word "income", the words "chargeable profits" shall be substituted.

Modification of section 220.—(xxi) In section 220,—

(a) in sub-section (1), for the words and figures "Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 156", the words and figures "Any amount specified as payable in a notice of demand under the applied section 156" shall be substituted;

(b) in sub-section (2),—

(i) for the word and figures "section 158", the words and figures "the applied section 156" shall be substituted;

(ii) in the proviso, for the words and figures "section 154, or section 155, or section 250 or section 254, or section 260, or section 262, or section 264", the words and figures "section 11 or section 13 or section 14 or section 17 of the Act, or the applied section 254, or the applied section 260 or the applied section 262" shall be substituted;

(c) in sub-section (6), for the word and figures "section 246", the words and figures "section 11 of the Act" shall be substituted;

(d) in sub-section (7),—

(i) for the words "in respect of income", the words "in respect of chargeable profits relating to income" shall be substituted;

(ii) for the words "which is due in respect of that amount of his income", the words "which is due in respect of that amount of his chargeable profits that relate to income" shall be substituted.

Modification of section 221.—(xxii) In section 221, in sub-section (1), for the word and figures "section 220", the words and figures "the applied section 220" shall be substituted.

Modification of section 222.—(xxiii) In section 222, in sub-section (1), for the words "the Second Schedule", the words "the applied Second Schedule" shall be substituted.

Modification of section 223.—(xxiv) In section 223,—

(a) in sub-section (1),—

(i) for the word and figures "section 222" the words and figures "the applied section 222" shall be substituted;

(ii) in clause (a), the words "or profession", wherever they occur, shall be omitted;

(b) in sub-section (2), for the words "this Chapter" the words and figures "the applied sections 223, 224 and 225 and the applied Second Schedule" shall be substituted.

Modification of section 224.—(xxv) In section 224,—

(a) in sub-section (1), for the word and figures "section 222", the words and figures "the applied section 222" shall be substituted;

(b) in sub-section (3), for the word and figures "section 225", the words and figures "the applied section 225" shall be substituted.

Modification of section 226.—(xxvi) In section 226,—

(a) in sub-section (1), for the word and figures "section 222", the words and figures "the applied section 222" shall be substituted;

(b) sub-section (2), shall be omitted;

(c) in sub-section (3), in clause (x),

(i) for the words and figures "sections 222 to 225", the words and figures "the applied sections 222 to 225 and the applied Second Schedule" shall be substituted;

(ii) for the word and figures "section 222", the words and figures "the applied section 222" shall be substituted.

(d) in sub-section (5) for the words "the Third Schedule" the words "the applied Third Schedule" shall be substituted.

Modification of section 228.—(xxvii) In section 228, in sub-section (1), for the word and figures "section 222", the words and figures "the applied section 222" shall be substituted.

Modification of section 229.—(xxviii) In section 229, for the words "this Chapter", the words, brackets and figures "the applied sections 220 to 228 (both inclusive), 231 and 232 and the applied Second Schedule and the applied Third Schedule" shall be substituted.

Modification of section 231.—(xxix) In section 231,—

(a) for the word and figures "section 173", the words and figures "the applied section 173" shall be substituted;

(b) for the word and figures "section 220", wherever they occur, the words and figures "the applied section 220" shall be substituted.

Modification of section 232.—(xxx) In section 232, for the words "this Chapter", wherever they occur, the words, brackets and figures "the applied sections 220 to 229 (both inclusive), 231 and 233 and the applied Second Schedule and the applied Third Schedule" shall be substituted.

Modification of section 233.—(xxxi)

In section 233,—

(a) for the word and figures "section 220", the words and figures "the applied section 220" shall be substituted;

(b) for the words and figures "sections 221 to 229", the words and figures "the applied sections 221 to 229 and the applied Second Schedule and the applied Third Schedule" shall be substituted;

(c) for the word and figures "section 141", the words and figure "section 7 of the Act" shall be substituted;

(d) for the words and figures "section 143 or section 144", the words and figure "section 6 of the Act" shall be substituted.

Modification of section 238.—(xxvii) In section 238, sub-section (1) shall be omitted.

Modification of section 239.—(xxviii) In section 239,—

- (a) in sub-section (1), for the words "this Chapter", the words and figures "the applied section 237" shall be substituted;
- (b) in sub-section (2), for the words "income in respect of which the claim is made was assessable", the words "chargeable profits in respect of which the claim is made were assessable" shall be substituted.

Modification of section 242.—(xxix) In section 242, for the words "this Chapter", the words and figures "the applied section 237" shall be substituted.

Modification of section 244.—(xxx) In section 244,—

- (a) in sub-section (1), for the word and figures "section 240", the words and figures "the applied section 240" shall be substituted;
- (b) in sub-section (2), for the word and figures "section 241", wherever they occur, the words and figures "the applied section 241" shall be substituted.

Modification of section 254.—(xxxi) In section 254,—

- (a) in sub-section (1A), in clause (a), for the word and figures "section 52", the words and figures "section 52 of the Income-tax Act" shall be substituted;
- (b) sub-section (2) shall be omitted;
- (c) in sub-section (4), for the word and figures "section 256", the words and figures "the applied section 256" shall be substituted.

Modification of section 255.—(xxxii) In section 255,—

- (a) in sub-section (3), for the words "whose total income as computed by the Income-tax Officer in the case does not exceed twenty-five thousand rupees", the words "whose chargeable profits as computed by the Income-tax Officer in the case do not exceed two lakh and twenty-five thousand rupees" shall be substituted.
- (b) in sub-section (6), for the word and figures "section 131", the words and figures "the applied section 131" shall be substituted.

Modification of section 256.—(xxxiii) In section 256, in sub-section (1), for the word and figures "section 254", the words and figures "the applied section 254" shall be substituted.

Modification of section 257.—(xxxiv) In section 257, for the word and figures "section 256", the words and figures "the applied section 256" shall be substituted.

Modification of section 259.—(xli) In section 259, in sub-section (1), for the word and figures "section 256", the words and figures "the applied section 256" shall be substituted.

Modification of section 261.—(xlii) In section 261, for the word and figures "section 256", the words and figures "the applied section 256" shall be substituted.

Modification of section 262.—(xliii) In section 262,—

- (a) in sub-section (1),—
 - (i) for the word and figures "section 261", the words and figures "the applied section 261" shall be substituted;
 - (ii) in the proviso, for the words and figures "section 260 or section 265", the words and figures "the applied section 260 or the applied section 265" shall be substituted;
- (b) in sub-section (3), for the word and figures "section 260", the words and figures "the applied section 260" shall be substituted.

Modification of section 269.—(xlvii) In section 269, for the words "this Chapter", the words, figures and brackets "the applied sections 256 to 262 (both inclusive) and the applied sections 265, 266 and 268" shall be substituted.

Modification of section 284.—(xliii) For section 284, the following section shall be substituted, namely:—

"284. *Service of notice in the case of discontinued business.*—Where an assessment is to be made under the applied section 176, the Income-tax Officer may serve on the principal officer of the company

or where in the case of a non-resident company any person has been treated as its agent under section 163 of the Income-tax Act, on such person, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 5 of the Act, and the provisions of the Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that section."

Modification of section 287.—(xlv) In section 287, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

"Explanation.—The names of the directors, managing agents, secretaries and treasurers, or managers of the company may also be published if, in the opinion of the Central Government, the circumstances of the case justify it."

Modification of section 288.—(xlv) In section 288,—

- (a) in sub-section (1), for the word and figures "section 131" the words and figures "the applied section 131" shall be substituted;
- (b) in sub-section (4), in clause (b), after the word "income-tax", the words "or surtax" shall be inserted;
- (c) in sub-section (5), in clause (b), after the word "income-tax", the words "or surtax" shall be inserted.

Modification of section 290.—(xlvii) In section 290,—

- (a) the words "deducting" and "deduction" shall be omitted;
- (b) for the word "income", the words "chargeable profits" shall be substituted.

Modification of section 291.—(xlviii) In section 291, for the word "Income", wherever it occurs, the words "chargeable profits" shall be substituted.

Modification of the Second Schedule.—(xlix) In the Second Schedule,—

- (a) below the title, for the brackets, words and figures "[See section 222]", the brackets, words and figures "[See the applied section 222]", shall be substituted;
- (b) in rule 5, in clause (a), for the word and figures "section 220", the words and figures "the applied section 220" shall be substituted;
- (c) in rule 86, in clause (a), for the words, brackets, and figures "sub-clause (iii) of clause (44) of section 2, the words, brackets and figures "sub-clause (iii) of the applied section 2(44)" shall be substituted.

Modification of the Third Schedule.—(1) In the Third Schedule,—

- (a) below the title, for the brackets, words and figures "[See section 226(5)]", the brackets, words and figures "[See sub-section (5) of the applied section 226]" shall be substituted;
- (b) for the words "the Second Schedule", the words "the applied Second Schedule" shall be substituted.

4. Application of the Income-tax (Certificate Proceedings) Rules, 1962.—The Income-tax (Certificate Proceedings) Rules, 1962, as amended from time to time, shall, so far as may be, apply with the following modifications, namely:—

- (i) All references to the provisions of the Income-tax Act, shall be construed as references to the corresponding provisions of that Act as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964 and rule 3.
- (ii) All references to "Income-tax", except those in the short title and in the expression "Income-tax Officer" and "Income-tax Act", shall be construed as references to "surtax".
- (iii) All references to "tax" shall be construed as references to "surtax".
- (iv) In rule 1, sub-rule (2) shall be omitted.
- (v) In rule 2,—
 - (a) clause (1) shall be omitted;
 - (b) in clauses (3) and (4), for the words "the Act", wherever they occur, the words "Income-tax Act" shall be substituted.
- (vi) In rule 37, in sub-rule (2) for the words and figures "the Income-tax Act, 1961", the words, brackets and figures "the Companies (Profits) Surtax Act, 1964" shall be substituted.

5. Form of return of chargeable profits under section 5.—The return of chargeable profits required to be furnished under sub-section (1) or sub-section (2) of section 5 of the Act shall be in Form No. 1 and shall be verified in the manner indicated therein.

6. Preparation of return by authorised representative.—Every authorised representative of an assessee, being an authorised representative specified in clause (iii) or clause (iv) or clause (v) or clause (vi) or clause (vii) of sub-section (2) of the applied section 288, who has prepared the return of chargeable profits furnished by the assessee shall, either before making an appearance before the Income-tax Officer having jurisdiction to assess that assessee, or immediately after making such appearance, furnish to that officer—

- (a) particulars of accounts, statements or other documents supplied to him by the assessee for the preparation of the return of chargeable profits; and
- (b) where the authorised representative has for the purpose of preparation of the return of chargeable profits carried out any examination of such accounts, statements or documents, a report on the scope and results of such examination.

7. Form of notice under section 7(2) of the Act.—The notice which the Income-tax Officer is required to give under sub-section (2) of section 7 of the Act before making a provisional assessment shall be in Form No. 2.

8. Form of appeal to Appellate Assistant Commissioner.—(1) An appeal under section 11 of the Act to the Appellate Assistant Commissioner shall be made in Form No. 3 and shall be verified in the manner indicated therein.

(2) The form of appeal prescribed by sub-rule (1), the grounds of appeal and the form of verification appended thereto shall be signed by the principal officer of the company, or where in the case of a non-resident company, the assessment has been made on any person who has been treated as its agent under section 163 of the Income-tax Act, by such person.

9. Mode of service.—(1) The intimation of any such order as is referred to in clause (b) of sub-section (3) of section 11 of the Act shall be served in the same manner as is laid down in the applied section 282 for the service of a notice or requisition.

(2) Any other order, not being a notice or requisition, which is to be sent or communicated to, or served on, any person shall be sent, communicated or served either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908 (5 of 1908).

10. Form of appeal and memorandum of cross objections to Appellate Tribunal.—(1) An appeal under sub-section (1) or sub-section (2) of section 12 of the Act to the Appellate Tribunal shall be in Form No. 4 and shall be verified in the manner indicated therein.

(2) A memorandum of cross-objections under sub-section (4) of section 12 of the Act to the Appellate Tribunal shall be made in Form No. 5 and shall be verified in the manner indicated therein.

11. Search and seizure.—The powers of search and seizure under the applied section 132 shall be exercised in accordance with the provisions contained in sub-rules (2) to (11) of rule 112 of the Income-tax Rules, 1962, as if they were part of these rules, subject to the following modifications, namely:—

- (i) in sub-rule (2), for the words and figures "section 132 of the Act", the words and figures "the applied section 132" shall be substituted;
- (ii) in sub-rule (7), for the words, figures and brackets "the Indian Income-tax Act, 1922 (11 of 1922) or the Act", the words, brackets and figures "the Companies (Profits) Surtax Act, 1964" shall be substituted;

(iii) in sub-rule (10), for the words "the Act", the words, figures and brackets "the Income-tax Act, 1961 (43 of 1961)" shall be substituted;

(iv) in sub-rule (11), for the words and figures "Form No. 45", the words and figures "Form No. 6" shall be substituted.

12. Disclosure of information respecting assessee.—(1) The application to the Commissioner under sub-section (1) of the applied section 138 for information relating to an assessee in respect of any assessment made under the Act shall be made in Form No. 7.

(2) The information under sub-section (1) of the applied section 138 shall be furnished by the Commissioner in Form No. 8.

(3) Where it is not possible for the Commissioner to furnish the information asked for by the applicant under sub-section (1) of the applied section 138 owing to the fact that the relevant assessment has not been completed, he shall inform the applicant in Form No. 9.

(4) Where the Commissioner is satisfied that it is not in the public interest to furnish or cause to be furnished the information asked for, he shall intimate the fact to the applicant in Form No. 10.

13. Notice of demand.—(1) Subject to the provisions of sub-rule (2), the notice of demand under the applied section 156 shall be in Form No. 11 and shall be accompanied by the assessment form in Form No. 12.

(2) The notice of demand relating to any surtax due in consequence of a provisional assessment made under section 7 of the Act shall be in Form No. 13.

14. Levy of interest under sub-section (2) of the applied section 220.—The interest chargeable under sub-section (2) of the applied section 220 shall be levied in accordance with the provisions of rules 118 and 119 of the Income-tax Rules, 1962, as if they were part of these rules, subject to the following modifications, namely :—

(i) All references to "tax" in the aforesaid rules shall be construed as references to "surtax".

(ii) All references to sections 156, 220 and 222 in the aforesaid rules shall respectively be construed as references to the applied sections 156, 220 and 222.

15. Refund claim.—(1) A claim for refund under the applied section 239 shall be made in Form No. 14.

(2) The claim under sub-rule (1) may be presented by the claimant in person or through a duly authorised agent or may be sent by post.

16. Form of application for reference to High Court.—An application under sub-section (1) of the applied section 256 requiring the Appellate Tribunal to refer to the High Court any question of law shall be made in Form No. 15.

17. Prescribed arrangements for declaration and payment of dividends within India.—The arrangements referred to in clauses (viii) and (x) of rule 1 of the First Schedule and the first proviso to paragraph 1 of the Third Schedule to the Act, to be made by a company for the declaration and payment of dividends (including dividends on preference shares) within India shall be the same as specified in clauses (1), (2) and (3) of rule 27 of the Income-tax Rules, 1962.

APPENDIX
FORM No. 1

SURTAX

(See Rule 5)

RETURN OF CHARGEABLE PROFITS UNDER SUB-SECTION (1) OR SUB-SECTION (2) OF SECTION 5 OF THE COMPANIES (PROFITS) SURTAX ACT, 1964.

Assessment year 19..... 19.....
Name of the Company
Address

PART I

Statement of chargeable profits of the previous year(s) ended... and other relevant particulars

(If there are different previous years for different sources of income, the source or sources should be indicated against each previous year).

Rs.

1. Amount of the chargeable profits of the previous year(s) as computed in Part II of the Return.
[Where the amount computed is a positive figure, it should be prefixed by the symbol (+) and where it is a negative figure, it should be prefixed by the symbol (-).]

2. Amount of the statutory deduction as computed in Part III of the Return.

3. Amount of net chargeable profits (i.e., the amount by which the chargeable profits shown against item 1 exceed the statutory deduction shown against item 2).

4. The amount of income, profits and gains attributable to the business of generation or distribution of electricity or of manufacture or production of any one or more of the articles specified in the list in paragraph 2 of the Third Schedule to the Companies (Profits) Surtax Act, 1964. (Give details).

(Please see Note 1)

NOTE 1. -(See item 4 of Part I)

Under the first proviso to paragraph 1 of the Third Schedule to the Companies (Profits) Surtax Act, 1964, an Indian company or any other company which has made the prescribed arrangements for the declaration and payment of dividends within India is entitled to a rebate in respect of any income, profits and gains attributable to the business of generation or distribution of electricity or of manufacture or production of any one or more of the articles specified in the list in paragraph 2 of the said Schedule. The rebate admissible under the aforesaid proviso is equal to a sum of one-fifth of the amount which bears to the amount of the surtax payable, the same proportion as the amount of the aforesaid inclusion bears to the amount of total income.

PART II

Computation of Chargeable Profits

(Copies of the audited profit and loss account and balance sheet must be attached to this return.)

	Rs.	Rs.
1. Total income computed in accordance with the provisions of the Income-Tax Act, 1961.	Profit +	Loss—
(i) Interest on securities	+	—
(ii) Income from house property	+	—
(iii) Profits and gains of business	+	—
(vi) Capital gains	+	—
(v) Income from other sources	+	—
TOTAL—Income		

(Please see Note 2)

2. **ADD** (Deduct, if the figures in item 1 is a loss)

Amount of interest payable in respect of debentures and moneys borrowed from Government or the Industrial Finance Corporation of India or the Industrial Credit and Investment Corporation of India or any other financial institution approved by the Central Government or any banking institution or any person outside India for creation of capital assets in India where in each case such moneys are repayable during a period of not less than seven years. [Please see rule 3(i) of the First Schedule to the Companies (Profits) Surtax Act, 1964].

(Please give details)

3. **DEDUCT** (Add, if the total income as adjusted in accordance with item 2 is a loss):

Rs.

(1) Income chargeable under the Income-tax Act, 1961 under the head "Capital gains".

(2) Any compensation or other payment referred to in clause (ii) of section 28 of the Income-tax Act, 1961.

(3) Profits of any business of life insurance.

(4) Income chargeable to income-tax under sub-section (2) of section 41 of the Income-tax Act, 1961.

(5) Profits derived from an industrial undertaking or hotel, on which under section 84 of the Income-tax Act, 1961 income-tax is not payable.

(6) Interest on securities of the Central Government issued or declared to be income-tax free or of a State Government issued income-tax free, the income-tax whereon is payable by the State Government.

(7) Donations to the National Defence Fund or charitable institutions and funds or to Government or a local authority in respect of which a deduction of income-tax is allowable under section 88 of the Income-tax Act, 1961.

(Please give details).

(8) Dividends from Indian companies or companies which have made the prescribed arrangements for the declaration and payment of dividends within India. Rs.

(9) Royalties received from Government or a local authority or any Indian concern.

(10) Income by way of any interest or fees for rendering technical services received from Government or a local authority or any Indian concern. [Applicable only to a non-resident company which has not made the prescribed arrangements for the declaration and payment of dividends within India, vide clause (x) of rule 1 of the First Schedule to the Companies (Profits) Surtax Act, 1964.]

(11) Amount of reserve(s) or deposits to be excluded under clause (xi) of rule 1 of the First Schedule to the Companies (Profits) Surtax Act, 1964. (Applicable to banking Companies only).
(Please see Note 3—give details).

(12) The amount of deduction from income-tax and super-tax chargeable on the total income allowable under the annual Finance Act in connection with export of any goods or merchandise out of India or the sale by a manufacturer of articles to any person who exports them out of India.

(13) Amount of income-tax and super-tax payable by the company in respect of its total income under the provisions of the Income-tax Act, 1961 as reduced by the aggregate of—

(i) the amount of income-tax and super-tax, if any, payable in respect of the income referred to in clauses (i), (ii), (iii) and (viii) of rule 1 of the First Schedule to the Companies (Profits) Surtax Act, 1964, and

(ii) the amount, if any, by which the amount of rebate of super-tax admissible to the company under the annual Finance Act is reduced on account of distribution of dividends during the previous year.

(Please see Note 4).

(14) Amount of tax actually paid in a country outside India in respect of any portion of income included in the total income.

(Please give details).

(15) Total of entries (1) to (14) of item 3.

4. Amount of chargeable profits carried to Part I of the Return.

(Item 1 plus item 2 minus entry (15) of item 3.)

NOTE 2—(See item 1 of Part II).

Against each of the entries (i) to (v), there should be shown the income as computed under the respective heads of income under the Income-tax Act, 1961, after taking into account all deductions permissible under that Act.

Total income is to be computed under the Income-tax Act, 1961, by making the following adjustments wherever applicable and to the extent permissible under the provisions of the said Act:—

- (a) adjustment for the amount of the development rebate carried forward from earlier assessment years;
- (b) set-off of loss from one head against income from another head;
- (c) set-off of losses carried forward from earlier assessment years;
- (d) adjustments for unabsorbed allowances on account of depreciation or capital expenditure on scientific research, carried forward from earlier assessment years.

NOTE 3 [See entry (11) of item 3 of Part II.]

In the case of a banking company, clause (21) of rule 1 of the First Schedule to the Companies (Profits) Surtax Act, 1964 provides for the exclusion from its total income (as computed under the Income-tax Act, 1961) of the amount of certain deposits made or reserves created by it during the previous year, for the purpose of the computation of its chargeable profits. The amount to be excluded under that provision is equivalent to, *either*—

- (a) the amount transferred during the previous year to a reserve fund under section 17(1) of the Banking Companies Act, 1949 or the amount deposited with the Reserve Bank of India under section 11(2)(b)(ii) of that Act, not exceeding the amount required under the aforesaid provisions to be so transferred or deposited, as the case may be, or
- (b) any sum transferred during the previous year to any reserves in India (including reserves not shown as such in the published balance sheet) in so far as the sums transferred to such reserves are attributable to income chargeable to tax under the Income-tax Act, 1961 and have not been allowed as a deduction in computing the total income under that Act and in so far as the aggregate of such sums transferred to the reserves does not exceed the highest of the aggregate of such sums, if any, so transferred to reserves during any one of the three years prior to the previous year,

whichever is higher.

NOTE 4—[See entry (13) of item of Part II]

The amount of income-tax and super-tax to be shown against this item will be the amount calculated after making allowance for any relief, rebate or deduction in respect of income-tax and super-tax to which the assessee may be entitled under the provisions of the Income-tax Act, 1961 or the annual Finance Act. The amount of tax so arrived at should be further reduced by the aggregate of the following amounts, namely:—

- (i) the amount of income-tax and super-tax, if any, payable in respect of
 - (a) any profits of any business of life insurance, (b) any income by way of compensation or other payment referred to in section 28(ii) of the Income-tax Act, 1961, (c) any income chargeable under the head "Capital gains" under the Income-tax Act, 1961, and (d) dividends from an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India, where any such income, profits and gains are included in the total income; and
- (ii) the amount if any, by which the amount of rebate of super-tax admissible to the company under the annual Finance Act is reduced on account of distribution of dividends during the previous year.

PART III

Computation of Statutory Deduction

Rs.

1. Paid-up share capital as on the first day of the previous year.

(Please see Note 5)

2. Credit balance in the share premium account (as on the first day of the previous year), to the extent it represents premia received in cash on the issue of shares.

3. Amount (as on the first day of the previous year) of the development rebate reserve, if any, created under the proviso (b) to section 10(2) (vib) of the Indian Income-tax Act, 1922 or under sub-section (3) of section 34 of the Income-tax Act, 1961.

4. Amount (as on the first day of the previous year) of other reserves, if any, in so far as the amounts credited to the said reserves have not been allowed in computing the profits of the company for the purpose of the Indian Income-tax Act, 1922 or the Income-tax Act, 1961. (Please give details).

5. Amount of debentures as on the first day of the previous year.

6. Amount of moneys borrowed (as on the first day of the previous year) from Government, the Industrial Finance Corporation of India, the Industrial Credit and Investment Corporation of India, any financial institution approved by the Central Government, any banking institution or a person in a country outside India for the creation of capital assets in India where in each case such moneys are repayable during a period of not less than seven years.

[Please see rule 1(b) of the First Schedule to the Companies (Profits) Sur-tax Act, 1964].

(Please give details).

7. Total of items 1 to 6 above.

8. DEDUCT:

(1) Amount (as on the first day of the previous year) of any paid-up share capital brought into existence by creating or by increasing (by re-valuation or otherwise) any book asset.

(2) (a) Amount (as on the first day of the previous year) of the cost of assets, if any, the income from which is not included in the chargeable profits in accordance with clause (iii) or clause (vi) or clause (viii) of rule 1 of the First Schedule to the Companies (Profits) Surtax Act, 1964.

Rs.

(Please see Note 6)

(b) Aggregate of the amounts (as on the first day of the previous year) of—

(i) any moneys borrowed (other than debentures or moneys referred to in item 6 of this Part) which remain outstanding; and

(ii) the amount of any fund, any surplus or any such reserves as is not to be taken into account in computing the capital under the Second Schedule to the Companies (Profits) Surtax Act, 1964.

Rs.

(c) Amount by which the cost of the assets shown against entry (a) exceeds the amount shown against entry (b) above.

[Please see rule 2 of the Second Schedule to the Companies (Profits) Surtax Act, 1964].

Rs.

9. Net amount of capital arrived at by deducting from the amount shown against item 7, the total of amounts shown against entries (1) and (2) (c) of item 8.

10. If the capital of the company was increased after the first day of the previous year, on account of increase of paid-up share capital or issue of debentures or borrowing of moneys referred to in item 6 of this Part, the amount by which the capital computed in accordance with rules 1 and 2 of the Second Schedule to the Companies (Profits) Surtax Act, 1964, is to be increased under rule 3 of that Schedule.

(Please see Note 7).

11. If the capital of the company was reduced after the first day of the previous year on account of reduction of paid-up share capital or redemption of debentures or repayment of moneys referred to in item 6 of this Part, the amount by which the capital computed in accordance with rules 1 and 2 of the Second Schedule to the Companies (Profits) Surtax Act, 1964, is to be decreased under rule 3 of that Schedule.

(Please see Note 7).

12. Amount arrived at by adding to/deducting from the net amount of the capital shown against item 9, the amount shown against items 10 and 11 respectively.

13. (a) Amount of income, profits and gains, if any, not includible in the total income as computed under the Income-tax Act, 1961.

Rs.

(Please see Note 8).

(b) Total amount of income, profits and gains in respect of the previous year(s) [i.e., the aggregate of the amount shown in entry (a) above, and the amount of the total income in respect of the previous year(s) as shown in item 1 of Part II of this Return].

Rs.

(c) Amount by which the capital as shown in item 12 is required to be diminished in accordance with rule 4 of the Second Schedule to the Companies (Profits) Surtax Act, 1964, i.e., the amount shown

Amount shown in entry (a) of item 13.
in item 12

Amount shown in entry (b) of item 13.

(Please see Note 9).

14. Capital of the company as computed in accordance with the provisions of the Second Schedule to the Companies (Profits) Surtax Act, 1964 [Amount shown in item 12 minus the amount shown in entry (c) of item 13].

15. Amount of the standard deduction at 10 per cent of the capital (as shown in item 14) or Rs. 2,00,000, whichever is greater.

(If the previous year is longer or shorter than a period of 12 months, the aforesaid amount of 10 per cent or, as the case may be, of Rs. 2,00,000 should be increased or decreased proportionately).

(Please see Note 10).

NOTE 5 (See item 1 of Part III).

If there are different previous years for different sources of income, the computation of capital under rules 1, 2 and 3 of the Second Schedule to the Companies (Profits) Surtax Act, 1964 is to be made with reference to the previous year which commenced first, vide Explanation 3 to rule 2 of the Second Schedule to the Companies (Profits) Surtax Act, 1964.

NOTE 6.—[See entry (2) (a) of item 8 of Part III].

The income which is not includible in the chargeable profits of a company under clauses (iii), (vi) and (viii) of rule 1 of the First Schedule to the Companies (Profits) Surtax Act, 1964, respectively, is the profits of any business of life insurance, interest on securities of the Central Government or of a State Government issued or declared to be income-tax free and dividends from an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India.

NOTE 7.—(See items 10 and 11 of Part III).

Rule 3 of the Second Schedule to the Companies (Profits) Surtax Act, 1964 provides that where, after the first day of the previous year relevant to the assessment year, the capital of a company (as computed under rule 1 and rule 2 of that Schedule) is increased by any amount on account of increase of paid-up share capital or issue of debentures or borrowing of any moneys referred to in clause (v) of rule 1 of that Schedule or is reduced by any amount on account of reduction of paid-up share capital or redemption of debentures or repayment of such moneys during the previous year, the capital computed in accordance with rules 1 and 2 shall be increased or reduced, as the case may be, by a sum which bears to that amount the same proportion as the number of days of the previous year during which the increase or the reduction of the capital remained effective bears to the total number of days in that previous year.

NOTE 8.—[See entry (a) of item 13 of Part III].

Instances of income, profits and gains not includible in the total income as computed under the Income-tax Act, 1961 are agricultural income in India, and in the case of a non-resident company, its income accruing or arising outside India.

NOTE 9.—[See entry (c) of item 13 of Part III].

Item 13 is to be filled in only in the case of a company, a part of the income, profits and gains of which is not includible in its total income as computed under the Income-tax Act, 1961.

Rule 4 of the Second Schedule to the Companies (Profits) Surtax Act, 1964 provides that where a part of the income, profits and gains of a company is not includible in the total income as computed under the Income-tax Act, 1961, its capital shall be the sum ascertained in accordance with rules 1, 2 and 3 diminished by an amount which bears to that sum the same proportion as the amount of the aforesaid income, profits and gains bears to the total amount of its income, profits and gains.

NOTE 10.—(See item 15 of Part III).

Where a company has different previous years in respect of its income, profits and gains, the increase or decrease referred to in item 15 should be calculated with reference to the length of the previous year of the longest duration [vide the second proviso to clause (8) of section 2 of the Companies (Profits) Surtax Act, 1964].

PART IV

Other particulars required under sub-section (1)/sub-section (2) of section 5 of the Companies (Profits) Surtax Act, 1964.

A. Place where the Registered Office of the company is situated.

B. Place where the Head Office of the Company is situated.

C. Location of each branch.

I solemnly declare that to the best of my knowledge and belief, the information given in the above statements in Parts I, II, III and IV of this Return is correct and complete, that the amount of the chargeable profits and other particulars shown are truly stated and relate to the previous year/all the previous years relevant to the assessment year commencing on the 1st day of April, 19... and that the company had during the said previous year(s) no other chargeable profits.

I further declare that the company was resident in India during the previous non-resident

year(s) for which the return is made

Date.....

Signature.....

Address.....

Status*

*The declaration should be signed by the Principal Officer of the Company or where in the case of a non-resident company any person has been treated as its agent under section 163 of the Income-tax Act, 1961, by such person.

THE SIGNATORY SHOULD SATISFY HIMSELF THAT THE RETURN IS CORRECT AND COMPLETE IN EVERY RESPECT BEFORE SIGNING THE VERIFICATION. ANY PERSON MAKING A FALSE STATEMENT IN THE RETURN SHALL BE LIABLE TO PROSECUTION UNDER SECTION 21 OF THE COMPANIES (PROFITS) SURTAX ACT, 1964 AND ON CONVICTION SHALL BE PUNISHABLE WITH SIMPLE IMPRISONMENT WHICH MAY EXTEND TO SIX MONTHS OR WITH FINE WHICH MAY EXTEND TO RS. 1,000/- OR WITH BOTH.

FORM NO. 2

SURTAX

(See rule 7)

NOTICE UNDER SUB-SECTION (2) OF SECTION 7 OF THE COMPANIES (PROFITS) ACT, 1964.

Income-tax Office.....

Dated, the.....19.....

To

Whereas the time allowed under sub-section (1) or sub-section (2) of section 5 of the Companies (Profits) Surtax Act, 1964 for furnishing of the return of chargeable profits for the assessment year 19.....19..... has expired, and whereas I propose to make a provisional assessment for that assessment year in accordance with the provisions of section 7 of the said Act, I hereby give you notice under sub-section (2) of that section, of my intention to make a provisional assessment for the said assessment year as indicated in the statement of the amount of the proposed assessment attached

2. If you have any objection to the amount of the proposed provisional assessment you may, within fourteen days of receipt of this notice, deliver to me a statement of your objections thereto.

3. Your return for the year 19 .. 19.. .. has*/has not been received in this office.

(SEAL)

Income-tax Officer.

*Delete whichever is inappropriate.

FORM NO. 3

SURTAX

(See Rule 8)

APPEAL TO THE APPELLATE ASSISTANT COMMISSIONER OF INCOME-TAX UNDER SECTION 11 OF THE COMPANIES (PROFITS) SURTAX ACT, 1964.

Designation of the Appellate Assistant Commissioner

*No. of.....19.....19

1. Name and Address of the Appellant.

2. S.T. G.I.R. No.

3. Assessment year in connection with which the appeal is preferred.

1. Income-tax Officer passing the order appealed against.

5. Section and sub-section of the Companies (Profits) Surtax Act, 1964, under which the Income-tax Officer passed the order appealed against and the date of such order.

6. Where the appeal relates to any assessment or penalty or fine, the date of service of the relevant notice of demand.

7. In any other case, the date of service of the intimation of the order appealed against.

**8. Relief claimed in appeal.

9 Address to which notices may be sent to the appellant.

Signed

(Appellant)

*Statement of Facts.

**Grounds of Appeal.

1.

2.

3.

4.

etc.

Signed

(Appellant)

FORM OF VERIFICATION.

I, the appellant, do hereby declare that what is stated is true to the best of my information and belief

Place

Signature

Date

Status of appellant

NOTES.— (1) The form of appeal, grounds of appeal and the form of verification appended thereto shall be signed by a person in accordance with the provision of rule 7(2).

(2) The memorandum of appeal, statement of facts and the grounds of appeal must be in duplicate and should be accompanied by a copy of the order appealed against and the notice of demand in original, if any.

(3) Delete the inappropriate words.

(4) *These particulars will be filled in in the office of the Appellate Assistant Commissioner.

(5) **If the space provided herein is insufficient, separate enclosures may be used for the purpose.

FORM No. 4

SURTAX

[See rule 10(1)]

FORM OF APPEAL TO THE APPELLATE TRIBUNAL

In the Income-tax Appellate Tribunal.....
 *Appeal No.....of.....19.....19.....

Appellant

Versus

Respondent

1. The State in which the assessment was made.
2. Section under which the order appealed against was passed.
3. Assessment year in connection with which the appeal is preferred.
4. **The Income-tax Officer passing the original order.
5. **Section of the Companies (Profits) Surtax Act, 1964 under which the Income-tax Officer passed the order.
6. **The Appellate Assistant Commissioner passing the order under section 11/ applied section 131 (2).
7. **The Commissioner passing the order under section 16.
8. Date of communication of the order appealed against.
9. Address to which notices may be sent to the appellant.
10. Address to which notices may be sent to the respondent.
11. †Relief claimed in appeal.

†Grounds of Appeal.

- 1.
- 2.
- 3.
- 4.

etc.

Signed

(Appellant)

Signed

(Authorised representative, if any).

VERIFICATION

I,.....the appellant do hereby declare that what is stated above is true to the best of my information and belief.

Verified today the.....day of19.....

Signed.

NOTES.—(1) The memorandum of appeal must be in triplicate and should be accompanied by two copies, (at least one of which should be a certified copy) of the order appealed against and two copies of the relevant order of the Income-tax Officer

(2) The memorandum of appeal in the case of an appeal by an assessee under section 12(1) of the Act must be accompanied by a fee of one hundred rupees. It is suggested that the fee should be credited in the Treasury or a Branch of the State Bank of India or a Branch of the Reserve Bank of India after obtaining a chalan from the Income-tax Officer and the triplicate chalan sent to the Appellate Tribunal with the memorandum of appeal. The Appellate Tribunal will not accept cheques, drafts, hundies or other negotiable instruments.

(3) The memorandum of appeal should be written in English and should set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative and such grounds should be numbered consecutively.

(4) *The number and year of appeal will be filled in in the office of the Appellate Tribunal.

(5) **Delete the inapplicable items.

(6) †If the space provided is found insufficient, separate enclosures may be used for the purpose.

FORM No. 5

SURTAX

[See rule 10(2)]

FORM OF MEMORANDUM OF CROSS OBJECTIONS TO THE APPELLATE TRIBUNAL

In the Income-tax Appellate Tribunal...

*Cross Objection No. ... of ... 19 ... 19...

**In Appeal No. ... of ... 19 ... 19...

Appellant	Versus	Respondent
1. **Appeal No. allotted by the Tribunal to which memorandum of cross objections relates.		
2. The State in which the assessment was made.		
3. Section under which the order appealed against was passed.		
4. Assessment year in connection with which the memorandum of cross objections is preferred.		
5. Date of receipt of notice of appeal filed by the appellant to the Tribunal.		
6. Address to which notices may be sent to the respondent (cross-objector).		
7. Address to which notices may be sent to the appellant.		
8. †Relief claimed in the memorandum of cross objections.		

†Grounds of Cross Objections.

- 1.
- 2.
- 3.
- 4.

etc.

Signed.

(Respondent)

Signed.

(Authorised representative, if any).

VERIFICATION

I, the respondent do hereby declare that what is stated above is true to the best of my information and belief.

Verified today the day of 19.....

Signed.

NOTES.—(1) The memorandum of cross objections must be in triplicate.

(2) The memorandum of cross objections should be written in English and should set forth, concisely and under distinct heads, the cross objections without any argument or narrative and such objections should be numbered consecutively.

(3) *The number and year of memorandum of cross objections will be filled in in the office of the Appellate Tribunal.

(4) **The number and year of appeal as allotted by the office of the Tribunal and appearing in the notice of appeal received by the respondent is to be filled in here by the respondent.

(5) †If the space provided is found insufficient, separate enclosures may be used for the purpose.

FORM No. 6

SURTAX

(See rule 11)

WARRANT OF AUTHORISATION UNDER SECTION 132 OF THE INCOME-TAX ACT, 1961, AS APPLIED TO SURTAX BY SECTION 18 OF THE COMPANIES (PROFITS) SURTAX ACT, 1964.

The Inspecting Assistant Commissioner of Income-tax.

The Income-tax Officer.

Whereas information has been laid before me and on the consideration thereof I have reason to believe that—

a summons under sub-section (1) of section 131 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, or a notice under sub-section (1) of section 6 of the Companies (Profits) Surtax Act, 1964 was issued by the Inspecting Assistant Commissioner of Income-tax/the Income-tax Officer, to (name of the person) on (date) to produce, or cause to be produced, books of account or other documents specified in the relevant summons or notice and he has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice;

a summons under sub-section (1) of section 131 of the Income-tax Act, 1961 as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, or a notice under sub-section (1) of section 6 of the Companies (Profits) Surtax Act, 1964 has been issued by the Inspecting Assistant Commissioner/the Income-tax Officer, (name of the person) on (date) to produce, or cause to be produced, books of account or other documents specified in the relevant summons or notice and that he will not produce, or cause to be produced, such books of account or other documents as required by such summons or notice;

if a summons under sub-section (1) of section 131 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, or a notice under sub-section (1) of section 6 of the Companies (Profits) Surtax Act, 1964 is issued to (name of the person) to produce, or cause to be produced, books of account or other documents which will be useful for, or relevant to.

proceedings under the Companies (Profits) Surtax Act, 1964 for the assessment year/years commencing on he would not produce, or cause to be produced, such books of account or other documents as required by such summons or notice;

.....(name of the company) is in possession of articles or things (including money) wholly disproportionate to its known sources of income, particulars of which will be useful for, or relevant to, proceedings under the Companies (Profits) Surtax Act, 1964;

And whereas I have reason to suspect that such books of account, other documents, articles or things (including money) have been kept and are to be found at (specify particulars of the building or place) This is to authorise and require you (name of the Inspecting Assistant Commissioner or the Income-tax Officer)

- (a) to enter and search with such assistance of police officers as may be required, the said premises;
- (b) to place identification marks on such books and documents as may be found in the course of the search and as you may consider relevant to or useful for the proceedings aforesaid and to make a list thereof together with particulars of the identification marks;
- (c) to examine such books and/or documents and make, or cause to be made, copies or extracts from such books or documents;
- (d) to seize such books and/or documents, and take possession thereof;
- (e) to convey such books or documents to the office of the Inspecting Assistant Commissioner or any other authority not below the rank of the Income-tax Officer employed in the execution of the Income-tax Act, 1961;
- (f) to exercise all the powers and duties under section 132 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act and the rules relating thereto.

(SEAL)

Commissioner of Income-tax.

NOTE.—Delete inappropriate words

FORM No. 7

SURTAX

[See rule 12(1)]

APPLICATION FOR INFORMATION UNDER SUB-SECTION (1) OF SECTION 138 OF THE INCOME-TAX ACT, 1961, AS APPLIED TO SURTAX BY SECTION 18 OF THE COMPANIES (PROFITS) SURTAX ACT, 1964.

To

The Commissioner of Income-tax

Sir,

I request you to furnish information relating to (here give name and complete address of the company) in respect of the assessment year commencing on the 1st day of April, 19.. on the following points:

1.
2.
3.
4.

etc.

2 The above information is required by me for the following reasons:—

1.
 2.
- etc.

Signature of applicant.....
 Name of the applicant.....
 (in capital letters)
 Father's/husband's name.....
 Full address.....

Date.....19.....

NOTE: A separate application has to be made in respect of each assessee and for each assessment year.

FORM NO. 8

SURTAX

[See rule 12(2)]

FORM FOR FURNISHING INFORMATION UNDER SUB-SECTION (1) OF SECTION 138 OF THE INCOME-TAX ACT, 1961, AS APPLIED TO SURTAX BY SECTION 18 OF THE COMPANIES (PROFITS) SURTAX ACT, 1964.

Office of the.....

No.....
 To.....

Date.....10.....

With reference to your application dated..... under sub-section (1) of section 138 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, requesting for information relating to..... in respect of the assessment year commencing on the 1st day of April, 19....., the said information/information respecting items No. of the said application is given below:—

Name and address of the company

Assessment year

1.
2.
3.
4.
5.

etc.

2. I/Commissioner of Income-tax,..... am/is satisfied that it is not in the public interest to furnish information respecting items No..... of your application and the information relating thereto is accordingly refused.

Signature of the
 authority furnishing
 information.....

(SEAL)

NOTE: Delete inappropriate words.

FORM NO. 9

SURTAX

[See rule 12(3)]

FORM FOR INTIMATING NON-AVAILABILITY OF INFORMATION UNDER SUB-SECTION (1) OF SECTION 138 OF THE INCOME-TAX ACT, 1961, AS APPLIED TO SURTAX BY SECTION 18 OF THE COMPANIES (PROFITS) SURTAX ACT, 1964.

Office of the.....

No.....

Date.....19.....

To

.....

.....

.....

With reference to your application dated .. under sub-section (1) of section 138 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964 requesting for information relating to .. in respect of the assessment year commencing on the 1st day of April, 19..... I am to inform you that the said information is not yet available/no assessment for the aforesaid assessment year has been made in the case of the aforesaid company.

(SEAL)

Signature.....

*Delete inappropriate words.

FORM NO. 10

SURTAX

[See rule 12(4)]

REFUSAL TO SUPPLY INFORMATION UNDER SUB-SECTION (1) OF SECTION 138 OF THE INCOME-TAX ACT, 1961, AS APPLIED TO SURTAX BY SECTION 18 OF THE COMPANIES (PROFITS) SURTAX ACT, 1964.

Office of the

.....

No.

Date 19

To

.....

.....

.....

With reference to your application dated..... under sub-section (1) of section 138 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, requesting for information relating to..... in respect of the assessment year commencing on the 1st day of April, 19.., I am to say that I am satisfied that it will not be in the public interest to furnish the information asked for and I therefore decline to furnish the same.

(SEAL)

Signature

FORM NO. 11

SURTAX

[See rule 13(1)]

NOTICE OF DEMAND UNDER SECTION 156 OF THE INCOME-TAX ACT, 1961, AS APPLIED TO SURTAX BY SECTION 18 OF THE COMPANIES (PROFITS) SURTAX ACT, 1964.

To

S.T.G.I.R. No.

.....

.....

This is to give you notice that for the assessment year a sum of Rs. details of which are given on the reverse has been determined to be payable by you.

2. The amount should be paid to the Treasury Officer/Sub-Treasury Officer/Agent State Bank of India/Reserve Bank of India at within 35 days / .. days of the service of this notice. The previous approval of the Inspecting Assistant Commissioner of Income-tax has been obtained for allowing a period of less than 35 days for the payment of the above sum. A challan is enclosed for the purpose of payment.

3. If you do not pay the amount on or before the period specified above, you shall be liable to pay simple interest at four per cent. per annum from the date commencing after the end of the period aforesaid in accordance with section 220(2) of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964.

4. If you do not pay the amount of tax within the period specified above, penalty (which may be as great as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964.

5. If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222 to 229, 231 and 232 and the Second Schedule and the Third Schedule of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964.

6. If you intend to appeal against the assessment/fine/penalty you may present an appeal under section 11 of the Companies (Profits) Surtax Act, 1964 to the Appellate Assistant Commissioner of Income-tax within thirty days of the receipt of this notice in the form prescribed under section 11(2) of the said Act duly stamped and verified as laid down in that form.

Dated

Income-tax Officer

Place

Address

NOTES.—(1) If you wish to pay the amount by cheque, the cheque should be drawn in favour of the Treasury Officer/Sub-Treasury Officer/Agent, State Bank of India/Reserve Bank of India.

(2) Delete inappropriate paragraphs and words.

FORM No. 12

SURTAX

[See rule 13(1)]

ASSESSMENT FORM

Serial No.....Assessment year.....
 S.T. G.I.R. No.....Section under which.....
 assessment or refund is made.
 Name.....District of Circle.....
 Address.....State,
 Resident/Non-resident.....Public Limited/Private Limited Company.

Rs.

A. (1) Amount of chargeable profits.

(2) Amount of statutory deduction.

(3) Net chargeable profits [i.e., the amount by which the chargeable profits in entry (1) exceed the statutory deduction in entry (2)].

B. (1) Cross surtax chargeable.

(2) Amount of rebate admissible under the first proviso to paragraph 1 of the Third Schedule to the Companies (Profits) Surtax Act, 1964.

(3) Surtax chargeable [(1) — (2)]

Adjustments to arrive at tax payable by the assessee:

C. Surtax paid on provisional assessment.

D. Surtax payable/refundable.

E. Surtax payable/refundable as per item D of assessment form of original assessment made on..... (date).

(This is to be filled in in the case of re-assessment, revision, rectification, appeal etc.)

F. (1) Additional amount of surtax payable/amount of reduction in surtax on re-assessment/revision/rectification/appeal etc.

(2) Penalty under section.....

(3) Composition under section 23.

(4) Interest payable by assessee under section 220 of the Income-tax Act, 1961 as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964.

(5) Interest payable to assessee under section 244 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964.

Total sum $\frac{\text{Payable}}{\text{refundable}}$ (in figures)

In words—Rupees and paise.

Date

Income-tax Officer.

FORM No. 13

SURTAX

[See rule 13(2)]

NOTICE OF DEMAND UNDER SECTION 156 OF THE INCOME-TAX ACT, 1961 AS APPLIED TO SURTAX BY SECTION 18 OF THE COMPANIES (PROFITS) SURTAX ACT, 1964 FOR PAYMENT OF SURTAX PROVISIONALLY ASSESSED UNDER SECTION 7 OF THE LATTER ACT.

To

.....
.....

S.T. G.I.R. No.

Please take notice that for the assessment year..... the sum of Rs..... has been determined to be payable by you under section 7 of the Companies (Profits) Surtax Act, 1964.

Treasury Officer

2. The amount should be paid to the Sub-Treasury Officer

Agent, State Bank of India

Reserve Bank of India

at within 35 days of the service of this notice.
..... days

The previous approval of the Inspecting Assistant Commissioner of Income-tax has been obtained for allowing a period of less than 35 days for the payment of the above sum. A chalan is enclosed for the purpose of payment.

3. If you do not pay the amount on or before the period specified above, you shall be liable to pay simple interest at four per cent. per annum from the date commencing after the end of the period aforesaid in accordance with section 220(2) of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964.

4. Further, if you do not pay the amount within the period specified above, penalty (which may be as great as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964.

5. If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222 to 229 and 231 to 233 and the Second Schedule and the Third Schedule of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964.

Dated 19 Income-tax Officer
Place..... (Address)

NOTES.—(1) If you wish to pay the amount by cheque, the cheque should be drawn in favour of the Treasury Officer/Sub-Treasury Officer/Agent, State Bank of India/Reserve Bank of India.

(2) Delete the inappropriate words.

FORM No. 14

SURTAX

[See rule 15]

CLAIM FOR REFUND OR SURTAX

I.....Principal Officer/Agent* of.....
.....(name of the company) do hereby state that the chargeable profits of and the statutory deduction admissible to.....
(name of the company) computed in accordance with the provisions of the Companies (Profits) Surtax Act, 1964 during the year ending on.....
being the previous year for the assessment year commencing on the 1st April, 19.....amounted to Rs.....and Rs.....respectively; that the surtax chargeable in respect of such chargeable profits is Rs..... and that the total amount of surtax paid is Rs.....

I, therefore, request for a refund of Rs.....
Dated Signature

I hereby declare that the abovenamed company was.....resident.....during the
.....non-resident.....
previous year(s) relevant to the assessment year to which this claim relates and that what is stated in this application is correct.

Dated Signature

* (1) Delete the inappropriate word(s).

(2) The term "agent" means a person who has been treated as an agent of a non-resident company under section 163 of the Income-tax Act, 1961.

FORM No. 15

SURTAX

[See rule 16]

REFERENCE APPLICATION UNDER SECTION 256(1) OF THE INCOME-TAX ACT, 1961, AS APPLIED TO SURTAX BY SECTION 18 OF THE COMPANIES (PROFITS) SURTAX ACT, 1964.

In the Income-tax Appellate Tribunal.....

In the matter of the assessment of.....(name of the assessee).

R.A. No. of 19..... (to be filled in by the Office)

.....

Applicant	Versus	Respondent
State from which the application is filed.....		
Name and number of the appeal which gives rise to the reference.....		

The applicant states as follows:—

- (1) that the appeal noted above was decided by the..... Bench of the Tribunal on.....
- (2) that notice of the order under sub-section (1) of section 254 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, was served on the applicant on.....
- (3) that the facts which are admitted and/or found by the Appellate Tribunal and which are necessary for drawing up a statement of the case, are stated in the enclosure for ready reference.
- (4) that the following questions of law arise out of the order of the Appellate Tribunal:
 - (1).....
 - (2).....
 - (3).....
 - etc.
- (5) that the applicant, therefore, requires under sub-section (1) of section 256 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, that a statement of the case be drawn up and the questions of law numbered..... out of the questions of law referred to in paragraph 4 above be referred to the High Court.
- (6) that the documents, or copies thereof, as specified below (the translation in English of the documents, where necessary, is annexed) be forwarded to the High Court with the statement of the case.

Signed.

(Applicant)

Signed.

(Authorised representative, if any).

NOTE.—This application when made by an assessee must be accompanied by a fee of one hundred rupees. It is suggested that the fee should be credited in the Treasury or a branch of the State Bank of India or a branch of the Reserve Bank of India, after obtaining a chalan from the Income-tax Officer and the triplicate chalan sent to the Appellate Tribunal with the application. The Appellate Tribunal will not accept cheques, drafts, hundies, or other negotiable instruments.

[No 57/F No 12(1)-64/TPL]

CORRIGENDA

SUPER PROFITS TAX

New Delhi, the 30th July 1964

S.O. 2665.—In the notification of the late Central Board of Revenue No. S.O. 2440, dated the 22nd August, 1963, published at pages 467 to 496 in Part II—

Section 3—Sub-section (ii) of the Gazette of India Extraordinary, dated the 23rd August, 1963,—

- (1) at page 468, in the seventh line, for "Income-tax proceeding" and "Income-tax proceedings" read "income-tax proceeding" and "income-tax proceedings" respectively;
- (2) at page 471, in the forty-eighth line, for "section 222 to 255" read "sections 222 to 225";
- (3) at page 472, in the twenty-fourth line, for "section 221 to 229" read "sections 221 to 229";
- (4) at page 473,—
 - (i) in the twenty-first line, for "for the words and figures" read "for the word and figures";
 - (ii) in the thirty-ninth line, for "or sub-section" read "or section";
- (5) at page 474,—
 - (i) in the thirty-ninth line, for "snall" read "shall";
 - (ii) in the forty-fourth line, for 'and figures "the applied section 131" shall be substituted' read 'and treasurers, or managers of the company may also be published';
- (6) at page 475,—
 - (i) in the twenty-third line, for "1963" read "1962";
 - (ii) in the thirty-sixth line, for "sub-rule 2" read "sub-rule (2)";
 - (iii) in the thirty-ninth line, for "w erever" read "wherever"
- (7) at page 480, in the ninth line, for "of merchandise" read "or merchandise";
- (8) at page 481, in the sixth line, for "purpose" read "purposes";
- (9) at page 494, in the eleventh line, for "revision/rectification appeal etc." read "revision/rectification/appeal etc."

[No. 56/F. No. 7(6)-63/TPL.]

HARIHAR LAL, Secy.